

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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OSCAR RAMIREZ, JAVIER GUERRERO,
GERONIMO HERCULANO, PABLO RUTILIO,
MAGGIE ANDRES CRECENCIO, GUILLERMO ALVAREZ,
JUANA CRUZ HERNANDEZ, LEONIDAS MATEO,
ANYELI OVALLES HERNANDEZ, MIRNA REYES
MARTINEZ, RAMON ROSARIO, OMAR TAVERAS,
LUIS ESPINAL, and JUAN SALMERON on behalf of
themselves and others similarly situated,

No.: 14 -cv- 4030

Hon. Valerie E. Caproni

**AFFIDAVIT OF OMAR TAVERAS
IN SUPPORT OF PLAINTIFFS'
REQUEST FOR CONDITIONAL
CLASS CERTIFICATION**

Plaintiffs,

v.

M L RESTAURANT, CORP., M.L. SAN JOSE ENTERPRISES, CORP.,
d/b/a LIBERATO RESTAURANT, ANTONIO MANUEL LIBERATO,
FERNANDO LIBERATO, VICTOR LIBERATO, NELSON GOMEZ,
LUCY GOMEZ, SARAH VALLEJO, NANA (LNU), and ROMEO (LNU)
jointly and severally,

Defendants

-----X
State of New York)

) ss.:

County of New York)

OMAR TAVERAS, residing at 1718 Adams St., Bronx, New York, being duly sworn,
deposes and says:

1. From on or about June 3, 2008 to on or about December 22, 2012 I was employed
by Liberato Restaurant as a counterperson and food preparation worker.

2. Liberato Restaurant is an establishment with locations at 1 West 183rd Street and
10 West Burnside Avenue, County of the Bronx, State of New York.

3. Initially I worked at the 183rd St location and I was later moved to the Burnside location.

4. At both locations behind the counter, where I would prepare food, and attend to customers seated at the counter. I also answered the phones and took orders.

5. I worked the night shift, regularly, ten (10) hours a day, six (6) days per week and was initially paid \$210 and later paid \$240 in cash weekly.

6. I knew that I was being paid less than minimum wage and that other workers were being paid similarly.

7. On my shift I worked with between twelve (12) and fourteen (14) other people worked behind the counter and on the dining room floor.

8. When I was working behind the counter, I received tips from customers.

9. At all times, I was required to hand my tips to the manager, who held onto them for the shift and pooled the tips. At the end of the shift, the manager returned the pooled tips to us to distribute.

10. No manager explained how the tip pool worked, but I was told by the manager Victor that the tips counted toward my pay.

11. I never received any record of the tips I received from the pool, nor did my coworkers.

12. At all times at both locations, I was required to share tips with persons who did not serve customers directly such as the sandwich maker or deli person. I believe that all night shift workers who received tips were required to do so.

13. I never received overtime for hours worked in excess of forty (40) per week, nor did my coworkers and believe this is typical of the workplace.

14. Throughout my time at Liberato, I worked without breaks. I received only five (5) or ten (10) minutes to eat.

15. From the time I began to work at Liberato I never received a statement of wages. I never heard of or saw anyone receive wage statements when they received their pay.

16. At all times in order to receive my pay I was required to sign in a book kept by the manager. I was never given a copy of this record but I know that the record did not include the number of hours worked, but did include wages and tips received. At all times I was required to sign for receipt of more tips than I actually received.

17. On one occasion when I told the Burnside manager Victor Liberato that I did not want to sign a false record he stated that I would be fired if I did not sign.

18. I have reason to believe that my coworkers and I were treated similarly.

WHEREFORE, it is respectfully urged that the request for conditional certification of a representative class be granted.

Sworn to before me this

25th day of September 2014.



OMAR TAVERAS



Notary Public

REBECCA T. ISHAK
Notary Public, State of New York
No. 011S6286012
Qualified in Queens County
Commission Expires July 22, 2017